

**BEFORE**

**THE PUBLIC SERVICE COMMISSION**

**OF SOUTH CAROLINA**

**DOCKET NO. 2021-15-C**

<b>IN RE:</b>	Application of CarolinaConnect Cooperative, Inc. for Designation as an Eligible Telecommunications Carrier in Certain Census Blocks in Newberry, Lexington and Saluda Counties for Purposes of Receiving Federal Rural Digital Opportunity Fund ("RDOF") Phase I Support	) ) ) ) ) ) ) )	<b>PROPOSED ORDER DESIGNATING THE COMPANY AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER</b>
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This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of CarolinaConnect Cooperative, Inc. ("Company") for designation as an Eligible Telecommunications Carrier ("ETC") in the State of South Carolina for the service areas in which the eligible census block(s) have been provisionally awarded Rural Digital Opportunity Fund ("RDOF") Phase I support by the Federal Communications Commission ("FCC") as a winner in the RDOF Phase I auction ("Auction 904").

The Company seeks designation as an ETC pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 ("Telecommunications Act"), as amended, and Section 103-690 of the South Carolina Code of Regulations ("Regulation(s)"). The Company's receipt of RDOF support is contingent, in part, on receiving an ETC designation from the Commission by June 7, 2021.

Applicant requests waiver of Regulation 103-690.C.(a)(1)(B), regarding submission of a two-year plan, and Regulation 103-690.1.B.(b)(1), regarding updates to the two- year plan. The Company also requests waiver of Regulation 103-690.C.(b) to the extent it would prohibit

designation as an ETC in an area smaller than a wire center. The Company further requests expedited consideration of this matter and waiver of the formal evidentiary hearing.

Upon review of the Application and all of the supporting documents submitted by the applicant, and for the reasons explained in this Order, the Commission concludes that the Application and certain Regulation waivers should be approved and that designation of the Company as an ETC on the terms provided in this Order would serve the public interest.

## I. BACKGROUND

On January 30, 2020, the FCC established the RDOF plan to ensure continued and rapid deployment of broadband networks to unserved Americans.<sup>1</sup> RDOF will commit up to \$20.4 billion over ten years to support the availability of high-speed networks in rural areas of the United States. The FCC released the RDOF Closing Public Notice<sup>2</sup> on December 7, 2020 announcing the conclusion of Phase 1 of Auction 904. Phase I committed up to \$16 billion over the next ten years.

The Company filed its verified application (“Application”) for designation as an ETC on December 31, 2020. As directed by the Commission, notice of the filing of the Application was published and proof of publication provided to the Commission. The South Carolina Office of Regulatory Staff (“ORS”) is a statutory party in this matter. See S.C. Code Ann. § 58-4-10(B). No other comments or petitions to intervene were received in response to the notice. Thus, all interested persons have been afforded an opportunity for a hearing, as required by S.C. Code Ann. § 58-9-

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<sup>1</sup> *See Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (“RDOF Order”).

<sup>2</sup> *See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422 (rel. Dec. 7, 2020) (“RDOF Closing Public Notice”).

280(B), Section 1-23-320(a) of the South Carolina Administrative Procedures Act, and constitutional due process. Proceeding without a formal hearing in this matter would serve the public interest in administrative efficiency.

On March 15, 2021, a Stipulation entered into between the Company and the ORS was filed with the Commission (“Stipulation”). The Stipulation recommends that the Company be designated as an ETC in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Order Exhibit A. The Company filed the verified direct testimony of D. Glenn Martin in support of the Application on February 19, 2021. The Company was deemed a winning bidder for 227 eligible census blocks in the census block groups identified in Exhibit A to the Application, attached hereto as Exhibit B. The Commission held oral arguments on March 15, 2021 regarding the Company’s request for expedited review, requesting that the Commission waive a formal hearing and approve the Application and requested waivers. The ORS did not object to the request for expedited review of the Application and requested waivers conditional upon the executed Stipulation. Having considered the record before it, the Commission finds that it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the formal hearing and granting expedited consideration.

## **II. ANALYSIS**

Section 214(e)(2) of the Telecommunications Act authorizes state commissions to designate common carriers that meet the applicable requirements as ETCs. Regulation 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC for the purpose of receiving federal universal service support pursuant to Section 214(e) of the Telecommunications

Act. As demonstrated in the Application, the Verified Testimony and the Stipulation, the Company satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Telecommunications Act and Regulation 103-690. For participation in the RDOF program the Company is a common carrier as defined by 47 U.S.C.A. § 153(11), and will offer all the voice and broadband internet services supported by federal support mechanisms either using its own facilities or combination of its own facilities and resale of another carrier's services, and advertise the availability of its offerings and charges through media of general distribution. The Company has certified that it will comply with the service requirements; demonstrated its ability and commitment to remain functional in emergency situations; demonstrated its commitment to satisfy applicable consumer protection and service quality standards, including annual certification of its compliance and reporting of consumer complaints in accordance with Regulations 103-690.C(a)(3) and 103-690.1.B(b)(4); demonstrated that the Company is financially and technically capable of providing the service; demonstrated that it will provide local usage plans comparable to the incumbent local exchange carriers already operating in the area; and committed to comply with applicable federal and state reporting requirements including, but not limited to, submitting reports regarding unfulfilled service requests under Regulation 103-690.1.B.(b)(3) and other annual reports required by Regulation 103-690.1. Additionally, in accordance with 47 C.F.R. § 54.101(d) and Regulation 103-690.1.E, the Company will offer voice and broadband internet access service to low-income customers in the RDOF designated service area.

Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant the Company designation for the purpose of providing voice and broadband Internet access services.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Application, pre-filed testimony and Stipulation are accepted into the record without objection;

2. Since this matter is uncontested, ORS does not oppose the Application and waivers, and the Company otherwise meets the requirements for designation as described below, expedited review should be granted;

3. The Company meets all federal and state requirements for designation as an ETC in the proposed areas where it seeks designation, with the exception of those requirements for which waiver is requested and specifically granted, as included herein;

4. The Commission grants the Company's request for a waiver of the requirement to file a two-year plan describing proposed improvements or upgrades to its network. The Commission may waive a rule or regulation where circumstances indicate that a waiver is appropriate, upon a finding that such waiver is not contrary to the public interest. In lieu of filing the two-year plan provided for in Regulation 103-690.C.(a)(1)(B), the Company shall make available to the Commission and ORS all reports it is required to file with the FCC in connection with the RDOF funding, as described above. The Company shall provide ORS with estimated timelines for each census block it proposes to serve. We conclude that providing the referenced reports to the Commission and to ORS provides a well-defined yardstick by which to measure Company's progress towards the availability of voice and broadband service in the RDOF designated areas and is therefore an acceptable alternative to the 2-year plan filing requirement.

5. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Company as an ETC in an area smaller than a wire center. As

described above, the FCC has established a mechanism to ensure the deployment of voice and broadband to unserved areas based on a granular analysis at the census block and location level to target funding to such areas. We agree with the Company that if the Commission were to deny the ETC designation the Company requests at the census block level in order to obtain available federal funding to serve the Funded Areas, those areas likely would remain unserved or underserved. Therefore, it is in the public interest to grant a waiver of the portion of Regulation 103-690.C(b) that prohibits designating an ETC service area smaller than an entire wire center in order to allow designation of the Company as an ETC at the census block level as described herein.

6. The Commission waives the equal access requirement of Regulation 103-690.C.(a)(5), which requires an applicant to acknowledge that the FCC “may require” it to offer equal access to long distance carriers. The Commission’s ETC regulations generally track the corresponding federal ETC regulations, and equal access is no longer a requirement under the FCC’s universal service rules, previously existing under 47 C.F.R. § 54.202(a)(5). Compare 47 C.F.R § 54.202(a)(5) (2020) with 47 C.F.R § 54.202(a)(5) (2007).

7. Granting this Application furthers the goals and purposes of Section 254 of the Telecommunications Act of 1996 in that access to the federal Universal Service Fund will ensure expanded access to voice and broadband service; and

8. Granting this Application allows the Company to build out underserved and unserved areas, bringing the benefits of voice and high-speed broadband to citizens in those areas; therefore, granting this Application is in the public interest.

#### **IV. IT IS THEREFORE ORDERED THAT:**

1. The Commission adopts and approves the Stipulation executed between the

Company and ORS attached hereto as Exhibit A.

2. The Commission grants expedited review to allow the Company to meet the federal requirement to be designated as an ETC in the RDOF designated areas identified in Exhibit B not later than June 7, 2021.

3. The Company's request for designation as an ETC is granted, as of the effective date of this Order and in the requested areas identified in Exhibit B, for the purpose of providing voice and broadband Internet access services as requested in the Application on the terms provided in the Stipulation.

4. The Company shall abide by its commitment to provide service throughout its ETC-designated service area to all customers making a reasonable request for service, including low-income customers.

5. The Company shall make available to the Commission and ORS the reports it is required to file with the FCC in connection with the RDOF funding. The Company shall provide ORS with estimated timelines for each census block it proposes to serve.

6. Except as provided in this Order, the Company shall meet the reporting and certification requirements for ETCs as outlined by the Federal requirements and Regulation 103-690.1, and file the annual reporting information with the Commission no later than June 30th of each year. A copy of this report shall be provided to the ORS.

7. The Commission grants the Company's request for a waiver of Regulation 103-690.C.(a)(1)(B) requiring it to file a two-year plan describing proposed improvements or upgrades to its network, and of Regulation 103-690.1.B.(b)(1) regarding annual updates to the two-year plan.

8. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it

would prohibit designation of the Company as an ETC in an area smaller than a wire center.

9. The Commission further grants waiver of the equal access requirement set out in Regulation 103-690.C.(a)(5).

10. The Company shall provide voice and broadband services in conformity with 47 U.S.C.A. § 214(e)(2), 47 C.F.R. § 54.101 et seq., and Regulation 103-690.1 (E)(a) and all requirements of the RDOF program.

11. The Commission may deny the Company's annual recertification as an ETC if the Commission finds that the Company has not used the high-cost federal support provided to the Company within the State only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

12. This Order shall remain in full force and effect until further Order of the Commission.

**BY ORDER OF THE COMMISSION:**

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Justin T. Williams, Chairman

ATTEST:

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Florence P. Belser, Vice-Chairman

(SEAL)